



**Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals**

John Lee, Chair  
Susanne Murphy, Vice Chair  
Bob Fitzgerald, Clerk  
Jane Coffey, Member  
Drew Delaney, Member  
David Anderson, Assoc. Member

**DECISION – BOARD OF APPEALS CASE NO. 21-1**

**APPLICANT:  
Robert Carnes**

**SITE:  
1049 Main Street, Walpole, MA 02081**

**Assessor's Lot No. 33-355  
Zoning District CBD**

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The grant of a VARIANCE under Section 9.4.A. of the Zoning Bylaw to allow the placement of a storage container or shed on the property that is closer to the lot line than what is allowed within the Central Business District, at 1049 Main Street, Walpole, MA 02081.

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On March 3, 2021 a Public Hearing was opened and continued to April 7, 2021 via Zoom Meeting, the Board heard testimony on both nights, for the purpose of receiving information and voting upon a decision as to the granting of the Variance requested. The members who were present and voting:

**NAMES OF VOTING MEMBERS:**

John Lee, Chairman  
Susanne Murphy, Vice Chair  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Drew Delaney, Member

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**VOTE OF THE BOARD:**

A motion was made by Murphy and seconded by Coffey, that the Board deny the applicant a Variance under Section 9.4.A. of the Zoning Bylaw to allow the placement of a storage container or shed on the property that is closer to the lot line than what is allowed within the Central Business District, at 1049 Main Street, Walpole, MA 02081.

The vote was 4 - 1 – 0, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-no; Coffey-aye; Delaney-aye, therefore, the Variance is hereby denied.

## REASONS FOR DECISION

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

1049 Main Street is a 13,577 square foot narrow triangular lot and lies within the Central Business District, which requires 5,000 square feet of land. The building as erected on the lot is a pre-existing non-conforming structure, with less than 50 feet of frontage where 50 feet is required, and 6 feet of a rear yard setback where 10 feet is required. The narrow shape of the lot specifically affects the existing structure but does not generally affect the zoning district it is located. The lot coverage of the property is 95% impervious, and consists largely of pavement.

However, the Board was not persuaded that an undue hardship exists, primarily because the board expressed their concern over the lack of specific information that was submitted by the applicant relating to the exact size and height of the shed, height of the fence to the rear of the property, and the revised plot plan regarding the accuracy of the layout. While the applicant expressed that he is unsure if there would be safety concerns associated with the placement of the storage shed up against the building itself, the Board does not find that this type of safety concern is of the type that may justify a variance (i.e., where the safety concern is possibly created at a different location on the property that was not proposed, which necessitates a deviation from otherwise applicable requirements on site).

2. *Desirable relief may be granted without substantial detriment to the public good.*

The proposed placement of the storage shed in the rear left corner of the property as shown on the revised plot plan submitted with the application would eliminate a rear yard setback completely, with the storage shed being placed up against the existing fence which lies on the property line, where ten (10) feet is required. The abutting property to the rear relating to the shed placement is the Episcopal Church, and to the left of the property is an apartment building. The surrounding church, apartment building and houses located across the street may have existing sheds, however, they do not go within such close proximity to their setbacks. The applicant stated that during the yearly inspection, the Building Commissioner stated that the inside of the establishment was too crowded, and in response to the Building Commissioners comments, the applicant installed additional shelving inside of the establishment, and also an addition to the rear of the property last year. The applicant stated that due to the growth of the business, the current amount of space that is being used is quickly becoming outgrown. The substantial deviation from the required setback, and the existing congestion of the property with the addition, outdoor seating area, and three dumpsters leads the Board to conclude that the grant of the Variance would constitute a substantial detriment to the public good.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The intent of the Bylaw is to provide uniform regulation of buildings to establish reasonable expectations of neighbors and neighborhoods in terms of development within the neighborhood. The applicant, as previously mentioned in this decision, has already created storage with indoor shelving and has built an addition to the rear of the property, along with housing an outside seating area and three dumpsters. Furthermore, there was a lack of specific information from the applicant such as shed dimensions and the question of accuracy relating to the revised plot plan. Granting relief by a Variance would derogate from the intent and purpose of this bylaw due to

the applicant failing to meet the stringent standards for granting a Variance that is required, and having created a self-imposed hardship.

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**APPEALS FROM THIS DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.**

WALPOLZONING BOARD OF APPEALS

Robert Fitzgerald JHM  
Robert Fitzgerald, Clerk

cc: Town Clerk  
Building Inspector  
Applicant

This decision was made on April 7, 2021 and filed with the Town Clerk on April 21, 2021.